

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

LARRY E. EALY,

Petitioner,

-vs-

SHERIFF PHIL PLUMMER,

Respondent.

:

Case No. 3:08-cv-473

:

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

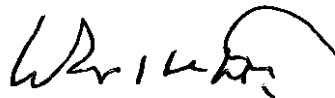
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ORDER ADOPTING SUPPLEMENTAL REPORT AND RECOMMENDATIONS

The Court has reviewed the Supplemental Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. No. 9), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on February 6, 2009, hereby ADOPTS said Supplemental Report and Recommendations.

It is therefore ORDERED that the Petition herein be dismissed without prejudice for failure to exhaust available state court remedies. Because reasonable jurists would not disagree with this conclusion, Petitioner is denied leave to appeal *in forma pauperis* and any requested certificate of appealability.

February 9, 2009.



Walter Herbert Rice
United States District Judge